

Senate File 487 - Introduced

SENATE FILE 487
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1046)

A BILL FOR

1 An Act relating to the operation of state government, including
2 the review of state boards, the regulation of professions
3 and occupations, and investigations conducted by state
4 boards, and including effective date and applicability
5 provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

REGULATION OF PROFESSIONS

Section 1. NEW SECTION. **272C.16 Definitions.**

For the purposes of this subchapter:

1. "*Health profession board*" means an entity regulating, licensing, or certifying a profession regulated pursuant to Title IV, subtitle 3.

2. "*Nonhealth profession*" means a profession regulated by this state other than provided in Title IV, subtitle 3.

3. "*Regulated health profession*" means a profession regulated pursuant to Title IV, subtitle 3.

4. "*Unregulated health profession*" means a profession pursuant to Title IV, subtitle 3, that is not currently regulated by any entity of this state.

5. "*Unregulated nonhealth profession*" means a profession that is not currently regulated by any entity of this state that is not an unregulated health profession.

Sec. 2. NEW SECTION. **272C.17 Regulation of unregulated health professions.**

1. An unregulated health profession shall not be subject to regulation by any entity of this state for the purpose of prohibiting competition but only for the exclusive purpose of protecting the public health or safety. All proposed legislation to regulate an unregulated health profession shall be reviewed by the general assembly to determine that all of the following conditions are met:

a. There is credible evidence that the unregulated practice of the unregulated health profession will clearly harm or endanger the public health or safety and the potential for harm is easily recognizable and not remote.

b. The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability.

c. The public cannot be effectively protected by other means in a more cost-efficient manner.

1 2. Prior to considering proposed legislation to regulate an
 2 unregulated health profession for passage to the floor of the
 3 senate or the house of representatives, a legislative committee
 4 to which proposed legislation to regulate an unregulated
 5 health profession has been referred shall consider whether the
 6 conditions in subsection 1 have been met. If the committee
 7 finds that the conditions in subsection 1 have been met, the
 8 committee shall consider whether the legislation is the least
 9 restrictive method of regulation, as defined in section 4B.1,
 10 to address the specific harm or danger identified in this
 11 subsection.

12 3. The legislative committee shall submit its findings
 13 regarding whether the proposed legislation meets the conditions
 14 in subsections 1 and 2 to the president of the senate or the
 15 speaker of the house of representatives, who shall make the
 16 findings available to each member of the general assembly on
 17 the internet site of the general assembly.

18 4. This section does not allow a person to practice an
 19 unregulated health profession if the profession includes
 20 practices within the scope of practice of an existing regulated
 21 health profession.

22 Sec. 3. NEW SECTION. **272C.18 Proposed regulation of**
 23 **unregulated health professions — written reports.**

24 1. A member of the general assembly introducing proposed
 25 legislation to regulate an unregulated health profession
 26 shall submit with the legislation a report, prepared by the
 27 legislative services agency, addressing the requirements
 28 contained in subsection 2. The report shall be submitted to
 29 the president of the senate or the speaker of the house of
 30 representatives prior to full consideration of the legislation
 31 by the senate or the house of representatives and made
 32 available on the internet site of the general assembly.

33 2. The report shall address all of the following and
 34 identify the source of all information contained in the report:

35 a. Why regulation is necessary including all of the

1 following:

2 (1) The nature of the proven harm to the public if the
3 unregulated health profession is not regulated and the extent
4 to which there is a threat to the public health or safety.

5 (2) The extent of autonomy a practitioner has, as indicated
6 by the extent to which the profession calls for the exercise
7 of independent judgment and the extent to which a practitioner
8 is supervised.

9 b. The efforts made to address the problem addressed by the
10 legislation including all of the following:

11 (1) Voluntary efforts, if any, undertaken by members of the
12 profession.

13 (2) Recourse to, and the extent of use of, applicable law
14 and whether the law could be amended to control the problem.

15 c. The alternatives considered including all of the
16 following:

17 (1) Regulation of business employers or practitioners
18 rather than employee practitioners.

19 (2) Regulation of the program or service rather than
20 individual practitioners.

21 (3) Registration of all practitioners.

22 (4) Certification of all practitioners.

23 (5) Other viable alternatives.

24 (6) If licensing is sought, why licensing would serve to
25 protect the public health or safety.

26 d. The benefit to the public health or safety if regulation
27 is granted including all of the following:

28 (1) The extent to which the incidence of specific problems
29 present in the unregulated health profession can reasonably be
30 expected to be reduced by regulation.

31 (2) Whether the public can identify qualified
32 practitioners.

33 (3) The extent to which qualified practitioners are
34 competent including all of the following:

35 (a) The composition, powers, duties, and practices of the

1 proposed regulatory entity.

2 (b) Whether current practitioners of an unregulated health
3 profession will be allowed to continue to practice and whether
4 they will be required to meet the qualifications for the
5 regulated health profession.

6 (c) The nature of the standards proposed for registration,
7 certification, or licensure as compared with the standards in
8 other jurisdictions.

9 (d) Whether the proposed regulatory entity would be
10 authorized to enter into reciprocity agreements with other
11 jurisdictions.

12 (e) The nature and duration of any training and experience
13 required, whether applicants will be required to pass an
14 examination, and whether there will be alternative methods to
15 enter the health profession.

16 (4) Assurances to the public that practitioners have
17 maintained their competence including all of the following:

18 (a) Whether a registration, certificate, or license will
19 include an expiration date.

20 (b) Whether the renewal of a registration, certificate,
21 or license will be based only on payment of a fee or whether
22 renewal will involve reexamination, peer review, or other
23 enforcement.

24 e. The extent to which regulation might harm the public
25 including all of the following:

26 (1) The extent to which regulation will restrict entry into
27 the profession, including whether the proposed standards are
28 more restrictive than necessary to ensure a practitioner's safe
29 and effective performance in the practice of the profession.

30 (2) Whether there are professions similar to the
31 unregulated health profession that should be included in, or
32 portions of the unregulated health profession that should be
33 excluded from, the proposed legislation.

34 f. The maintenance of professional standards including all
35 of the following:

1 (1) Whether effective quality assurance standards exist
2 in the profession such as legal requirements associated with
3 specific programs that define or enforce standards or a code
4 of ethics.

5 (2) How the proposed legislation will ensure quality,
6 including whether a code of ethics will be adopted and the
7 grounds for suspension or revocation of a registration,
8 certificate, or license.

9 g. A description of the group proposed for regulation,
10 including a list of associations, organizations, and other
11 professional groups representing practitioners in this state,
12 an estimate of the number of practitioners in each professional
13 group, and whether the professional groups represent different
14 levels of practice.

15 h. The expected costs of regulation, including the impact of
16 costs on the public and costs imposed on this state.

17 Sec. 4. NEW SECTION. 272C.19 **Proposed increased regulation**
18 **of regulated health professions — written reports.**

19 1. A member of the general assembly introducing proposed
20 legislation to expand the scope of practice of a regulated
21 health profession shall submit with the legislation a report,
22 prepared by the legislative services agency, addressing the
23 requirements contained in subsection 2. The report shall be
24 submitted to the president of the senate or the speaker of the
25 house of representatives prior to full consideration of the
26 legislation by the senate or the house of representatives and
27 made available on the internet site of the general assembly.

28 2. The report shall address all of the following and
29 identify the source of all information contained in the report:

30 a. Why an expanded scope of practice for the regulated
31 health profession is beneficial, including the extent to which
32 health care consumers need and will benefit from safe, quality
33 health care from practitioners within the expanded scope of
34 practice.

35 b. Whether expanding the scope of practice of practitioners

1 in the regulated health profession will require practitioners
2 to have didactic and clinical education from accredited
3 professional schools or training from recognized programs that
4 prepare them to perform within the proposed expanded scope of
5 practice, and specific educational or training requirements for
6 that proposed expanded scope of practice.

7 *c.* Whether the subject matter of the proposed expanded scope
8 of practice is currently tested by nationally recognized and
9 accepted examinations for applicants for professional licensure
10 and the details of the examination relating to the expanded
11 scope of practice.

12 *d.* The extent to which implementing the proposed expanded
13 scope of practice may result in savings or a cost to this state
14 and to the public.

15 *e.* The relevant regulated health profession licensure laws,
16 if any, in this state and other states.

17 *f.* Recommendations, if any, the applicable regulatory entity
18 or entities, the department of public health, and accredited
19 educational or training programs.

20 3. *a.* Prior to considering proposed legislation to
21 expand the scope of practice of a regulated health profession
22 for passage to the floor of the senate or the house of
23 representatives, a legislative committee to which proposed
24 legislation has been referred shall consider all of the
25 following:

26 (1) Whether the expansion of a regulated health
27 profession's scope of practice is only for the purpose of
28 protecting the public from a specific harm or danger.

29 (2) Whether the addition of adequately trained
30 practitioners providing an expanded range of health care
31 services will have a beneficial effect on the public and
32 increase access to safe, quality health care.

33 (3) Whether any changes in the entity regulating the
34 regulated health profession are necessary to protect the public
35 health or safety.

1 *b.* The legislative committee shall not consider competition
2 with or from other regulated health professions or whether a
3 practitioner will be able to obtain health insurance coverage
4 for the proposed expanded scope of practice.

5 Sec. 5. NEW SECTION. **272C.20 Continuing education**
6 **requirements — evidence of efficacy.**

7 A member of the general assembly introducing proposed
8 legislation to impose or increase a continuing education
9 requirement on a regulated health profession shall submit with
10 the legislation evidence that such a requirement has proven
11 effective for the health profession. The evidence shall be
12 submitted to the president of the senate or the speaker of the
13 house of representatives prior to full consideration of the
14 legislation by the senate or the house of representatives and
15 made available on the internet site of the general assembly.

16 Sec. 6. NEW SECTION. **272C.21 Regulation of unregulated**
17 **nonhealth professions.**

18 1. An unregulated nonhealth profession shall not be
19 regulated except for the exclusive purpose of protecting the
20 public health or safety. All proposed legislation to regulate
21 an unregulated nonhealth profession shall be reviewed by the
22 legislative committee to which the proposed legislation is
23 referred to ensure that all of the following requirements are
24 met:

25 *a.* The unregulated practice of the nonhealth profession can
26 clearly harm the public health or safety.

27 *b.* The actual or anticipated public benefit of the
28 regulation clearly exceeds the costs imposed by the regulation
29 on consumers, businesses, and individuals.

30 *c.* The public needs and can reasonably be expected
31 to benefit from an assurance of initial and continuing
32 professional ability.

33 *d.* The public cannot be effectively protected by private
34 certification or other alternatives.

35 2. If a legislative committee finds that the proposed

1 legislation satisfies the conditions in subsection 1, the
2 committee shall examine data from multiple sources and shall
3 consider evidence of actual harm to the public related to
4 the unregulated nonhealth profession being considered for
5 regulation. The evidence may include industry association
6 data; federal, state, and local government data; business
7 reports; complaints to law enforcement, relevant state
8 agencies, and the better business bureau; and data from
9 agencies in other states with and without similar systems of
10 regulation.

11 3. If, after consideration of evidence pursuant to
12 subsection 2, the legislative committee finds that it is
13 necessary to regulate an unregulated nonhealth profession, the
14 committee shall review the proposed legislation to determine
15 whether it is the least restrictive regulation, as defined in
16 section 4B.1, necessary and whether the regulation protects a
17 discrete interest group from economic competition.

18 4. The legislative committee shall submit its findings
19 regarding whether the proposed legislation meets the
20 requirements of subsections 1, 2, and 3 to the president of
21 the senate or the speaker of the house of representatives, who
22 shall make the findings available to each member of the general
23 assembly on the internet site of the general assembly.

24 5. This section does not allow a person to practice an
25 unregulated nonhealth profession if the profession includes
26 practices within the scope of practice of an existing regulated
27 nonhealth profession.

28 **Sec. 7. NEW SECTION. 272C.22 Proposed regulation of**
29 **unregulated nonhealth professions — written reports.**

30 1. A member of the general assembly introducing legislation
31 to regulate an unregulated nonhealth profession shall submit
32 with the legislation a report, prepared by the legislative
33 services agency, addressing the requirements contained in
34 subsection 2. The report shall be submitted to the president
35 of the senate or the speaker of the house of representatives

1 prior to full consideration of the legislation by the senate or
2 the house of representatives and made available on the internet
3 site of the general assembly.

4 2. The report shall address all of the following and
5 identify the source of all information contained in the report:

6 a. Why regulation is necessary including what particular
7 problem regulation would address.

8 b. The efforts made to address the problem.

9 c. The alternatives considered.

10 d. The benefit to the public health or safety of regulating
11 the profession.

12 e. The extent to which regulation might harm the public.

13 f. The maintenance of professional standards including all
14 of the following:

15 (1) Whether effective quality assurance standards exist
16 in the profession such as legal requirements associated with
17 specific programs that define or enforce standards or a code
18 of ethics.

19 (2) How the proposed legislation will assure quality
20 including the extent to which a code of ethics will be
21 adopted and the grounds for the suspension or revocation of a
22 registration, certificate, or license.

23 g. A description of the profession proposed for regulation,
24 including a list of associations, organizations, and other
25 professional groups representing practitioners in this state,
26 an estimate of the number of practitioners in each profession,
27 and whether the professional groups represent different levels
28 of practice.

29 h. The expected costs of regulation, including the impact of
30 costs on the public and costs imposed on this state.

31 Sec. 8. REPEAL. Section 3.20, Code 2021, is repealed.

32 DIVISION II

33 BOARD REVIEWS

34 Sec. 9. Section 2.69, subsection 1, Code 2021, is amended
35 to read as follows:

1 1. A state government efficiency review committee is
 2 established which shall meet ~~at least every two years to review~~
 3 ~~the operations of state government~~ monthly, as necessary,
 4 to efficiently review all boards according to the schedule
 5 established by the legislative services agency pursuant to
 6 section 4A.5. The committee shall meet as directed by the
 7 legislative council.

8 Sec. 10. Section 2.69, subsection 2, paragraph a, Code 2021,
 9 is amended to read as follows:

10 a. The committee shall consist of three members of the
 11 senate appointed by the majority leader of the senate, two
 12 members of the senate appointed by the minority leader of the
 13 senate, three members of the house of representatives appointed
 14 by the speaker of the house of representatives, ~~and~~ two members
 15 of the house of representatives appointed by the minority
 16 leader of the house of representatives, and one ex officio,
 17 nonvoting member appointed by the governor.

18 Sec. 11. Section 2.69, subsections 4, 5, and 6, Code 2021,
 19 are amended by striking the subsections.

20 Sec. 12. NEW SECTION. 4A.1 Definitions.

21 As used in this chapter, unless the context otherwise
 22 requires:

23 1. "*Board*" means any board, council, commission, committee,
 24 panel, review team, or foundation of this state, except that
 25 "board" does not include a pension board or the Iowa ethics and
 26 campaign disclosure board created in section 68B.32.

27 2. "*Board review criteria*" means the criteria required to be
 28 considered under section 4A.3.

29 3. "*Committee*" means the state government efficiency review
 30 committee created pursuant to section 2.69.

31 Sec. 13. NEW SECTION. 4A.2 Committee — review of boards.

32 1. The committee shall carry out the functions provided in
 33 this chapter.

34 2. Administrative assistance shall be provided by the
 35 legislative services agency and by staff of each caucus of the

1 general assembly.

2 Sec. 14. NEW SECTION. **4A.3 Board reviews.**

3 1. The committee shall review the usefulness, performance,
4 and efficacy of each board as provided in subsection 2. The
5 committee shall hold hearings to receive the testimony of the
6 public and of the chief executive officer of the board. After
7 completing a review, the committee shall prepare and publish
8 a report of its findings and recommendations as provided in
9 section 4A.4.

10 2. The legislative services agency shall establish a
11 schedule for the committee to review each board such that the
12 committee reviews approximately one-fifth of all boards each
13 calendar year and each board has been reviewed once between
14 the calendar years 2022 and 2027, and once every five years
15 thereafter. The committee may modify the schedule as necessary
16 to facilitate the efficient administration of the committee.

17 3. A board that is scheduled for review shall submit a
18 report to the committee thirty days prior to the date that it
19 is scheduled for review that includes all of the following
20 information:

21 a. The board's primary purpose and its goals and objectives.

22 b. The board's past and anticipated workload, the number of
23 staff required to complete that workload, and the board's total
24 number of staff.

25 c. The board's past and anticipated budgets and its sources
26 of funding.

27 d. The number of members that compose the governing board or
28 other governing entity of the board and member compensation,
29 if any.

30 4. A board subject to review shall bear the burden of
31 demonstrating to the committee a public need for its continued
32 existence. In determining whether a board has met that
33 burden, the committee shall consider all of the following, as
34 applicable:

35 a. Whether continuation of the board is necessary to protect

1 the health or safety of the public, and if so, whether the
2 board's authority is narrowly tailored to protect against
3 present, recognizable, and significant harms to the health or
4 safety of the public.

5 *b.* Whether the public could be protected or served in an
6 alternate or less restrictive manner.

7 *c.* Whether the board serves a specific private interest.

8 *d.* Whether rules adopted by the board are consistent with
9 the legislative mandate of the board as expressed in the
10 statutes that created and empowered the board.

11 *e.* The extent to which the board's jurisdiction and programs
12 overlap or duplicate those of other boards, the extent to which
13 the board coordinates with those other boards, and the extent
14 to which the board's programs could be consolidated with the
15 programs of other state departments or boards.

16 *f.* The number of other states that regulate the occupation,
17 whether a license is required to engage in the occupation in
18 other states, whether the initial licensing and license renewal
19 requirements for the occupation are substantially equivalent
20 in every state, and the amount of regulation exercised by the
21 board compared to the regulation, if any, in other states.

22 *g.* Whether the board recognizes national uniform licensure
23 requirements for the occupation.

24 *h.* Whether private contractors could be used, in an
25 effective and efficient manner, either to assist the board in
26 the performance of its duties or to perform the board's duties
27 in place of the board.

28 *i.* Whether the operation of the board has inhibited economic
29 growth, reduced efficiency, or increased government costs.

30 *j.* An assessment of the authority of the board regarding
31 fees, inspections, enforcement, and penalties.

32 *k.* The extent to which the board has permitted qualified
33 applicants to serve the public.

34 *l.* The extent to which the board has allowed individuals to
35 practice elements of the occupation without a license.

1 *m.* The cost-effectiveness of the board in terms of the
2 number of employees, services rendered, and administrative
3 costs incurred, both past and present.

4 *n.* Whether the board's operation has been impeded or
5 enhanced by existing statutes and procedures and by budgetary,
6 resource, and personnel practices.

7 *o.* Whether the board has recommended statutory changes to
8 the general assembly that would benefit the public rather than
9 the individuals regulated by the board, if any, and whether the
10 board's recommendations and other policies have been adopted
11 and implemented.

12 *p.* Whether the board has required any individuals subject to
13 the board's regulations to report to the board the impact of
14 board rules and decisions on the public as they affect service
15 costs and service delivery.

16 *q.* Whether individuals regulated by the board, if any, have
17 been required to assess problems in their business operations
18 that affect the public.

19 *r.* Whether the board has encouraged public participation in
20 its rulemaking and decision making.

21 *s.* The efficiency with which formal public complaints filed
22 with the board have been processed to completion.

23 *t.* Whether the purpose for which the board was created has
24 been fulfilled, has changed, or no longer exists.

25 *u.* Whether federal law requires that the board exist in some
26 form.

27 *v.* An assessment of the administrative hearing process of
28 the board if the board has an administrative hearing process,
29 and whether the hearing process is consistent with due process
30 rights.

31 *w.* Whether the requirement for an occupational license
32 is consistent with the principles expressed in section 4B.2,
33 serves the public health or safety, and provides the least
34 restrictive form of regulation that adequately protects the
35 public health or safety.

1 *x.* The extent to which licensing ensures that practitioners
2 have occupational skill sets or competencies that are
3 substantially related to protecting consumers from present,
4 significant, and substantiated harms that threaten the public
5 health or safety, and the impact that those criteria have on
6 applicants for a license, particularly those with moderate or
7 low incomes, seeking to enter the occupation or profession.

8 *y.* The extent to which the requirement for the occupational
9 license stimulates or restricts competition, affects consumer
10 choice, and affects the cost of services.

11 *z.* An assessment of whether changes are needed in the
12 enabling laws of the board in order for the board to comply
13 with the criteria listed in this subsection.

14 Sec. 15. NEW SECTION. **4A.4 Reports of the committee.**

15 1. After completing a review of a board pursuant to section
16 4A.3, the committee shall prepare and submit a report of its
17 findings and recommendations by December 21 of each year.
18 A report may include findings and recommendations for more
19 than one board. Copies of the report shall be submitted
20 to the president of the senate, the speaker of the house
21 of representatives, the governor, and each affected board,
22 and shall be made publicly available on the internet site
23 of the general assembly. The committee shall present its
24 recommendations to the general assembly in the form of a bill.

25 2. Recommendations of the committee shall indicate how or
26 whether implementation of the recommendations would do each of
27 the following:

28 *a.* Improve efficiency in the management of state government.

29 *b.* Improve services rendered to citizens of the state.

30 *c.* Simplify and improve preparation of the state budget.

31 *d.* Conserve the natural resources of the state.

32 *e.* Promote the orderly growth of the state and its
33 government.

34 *f.* Promote occupational regulations to increase economic
35 opportunities, encourage competition, and encourage innovation.

1 *g.* Provide for the least restrictive regulations by
 2 repealing current regulations and replacing them with less
 3 restrictive regulations that are consistent with the principles
 4 expressed in section 4B.2.

5 *h.* Improve the effectiveness of the services performed by
 6 the boards of the state.

7 *i.* Avoid duplication of effort by state agencies or boards.

8 *j.* Improve the organization and coordination of the state
 9 government.

10 Sec. 16. NEW SECTION. **4A.5 Activities of the general**
 11 **assembly not restricted.**

12 This chapter shall not be construed to restrict the general
 13 assembly from considering any legislation concerning a board
 14 subject to this chapter.

15 Sec. 17. NEW SECTION. **4A.6 Boards and governmental entities**
 16 **— dissolution.**

17 1. of the general assembly establishing a board after the
 18 effective date of this Act shall include a dissolution date for
 19 the board not more than five years after the establishment of
 20 the board.

21 2. An executive order of the governor establishing a
 22 governmental entity including but not limited to a board shall
 23 provide for the dissolution of the entity within one year of
 24 the establishment of the entity or upon the submission of a
 25 report required by the executive order, whichever is later.

26 Sec. 18. NEW SECTION. **4B.1 Definitions.**

27 For the purposes of this chapter:

28 1. "*Certification*" means a voluntary program in which
 29 a private organization or the state grants nontransferable
 30 recognition to an individual who meets personal qualifications
 31 established by the private organization or state law.

32 2. "*Lawful occupation*" means a course of conduct, pursuit,
 33 or profession that includes the sale of goods or services that
 34 are not themselves illegal to sell irrespective of whether
 35 the individual selling the goods or services is subject to an

1 occupational regulation.

2 3. "*Least restrictive regulation*" means the public policy of
3 relying on one of the following, listed from the least to the
4 most restrictive, as a means of consumer protection:

5 a. Market competition.

6 b. Third-party or consumer-created ratings and reviews.

7 c. Private certifications.

8 d. Actions under section 714H.5.

9 e. Actions under section 714.16.

10 f. Regulation of the process of providing the specific goods
11 or services to consumers.

12 g. Inspections.

13 h. Bonding or insurance.

14 i. Registrations.

15 j. Government certifications.

16 k. Occupational licenses, including specialty occupational
17 licenses for medical reimbursement.

18 4. "*Occupational license*" means a government permission slip
19 to work that is a nontransferable authorization in law that an
20 individual must possess in order to perform a lawful occupation
21 for compensation based on meeting personal qualifications
22 established by statute or by a rule authorized by statute.
23 "*Occupational license*" does not include a commercial or other
24 driver's license.

25 5. "*Occupational licensing board*" means any board,
26 commission, committee, or council, or any other similar state
27 public body, and any agency, division, or office of state
28 government, that issues an occupational license.

29 6. "*Occupational regulation*" means a statute, policy, rule,
30 practice, or other state law requiring an individual to possess
31 certain personal qualifications to use an occupational title or
32 work in a lawful occupation. "*Occupational regulation*" includes
33 a registration, certification, and occupational license.
34 "*Occupational regulation*" excludes a business license, facility
35 license, building permit, or zoning and land use regulation,

1 except to the extent those laws regulate an individual's
2 personal qualifications to perform a lawful occupation, and
3 excludes a commercial or other driver's license.

4 7. "*Personal qualifications*" means criteria related to an
5 individual's personal background and characteristics including
6 completion of an approved educational program, satisfactory
7 performance on an examination, work experience, other evidence
8 of attainment of requisite skills or knowledge, moral standing,
9 criminal history, and completion of continuing education.

10 8. "*Registration*" means a requirement to give notice to the
11 government that may include the individual's name and address,
12 the individual's agent for service of process, the location of
13 the activity to be performed, and a description of the service
14 the individual provides. "*Registration*" does not include
15 personal qualifications but may require a bond or insurance.

16 9. "*Specialty occupational license for medical reimbursement*"
17 is a nontransferable authorization in law for an individual
18 to qualify for payment or reimbursement from a government
19 agency for providing identified medical services based on
20 meeting personal qualifications established in law which may be
21 recognized by a private company.

22 Sec. 19. NEW SECTION. 4B.2 Occupational regulation
23 principles.

24 With respect to the occupational regulation of individuals,
25 all of the following shall be policies of this state:

26 1. Occupational regulations shall be construed and applied
27 to increase economic opportunities, promote competition, and
28 encourage innovation.

29 2. If the state finds it is necessary to displace
30 competition, the state shall use the least restrictive
31 regulation to protect consumers from present, significant, and
32 substantiated harms that threaten public health or safety. The
33 policy of employing the least restrictive regulation shall
34 presume that market competition and private remedies are
35 sufficient to protect consumers. If necessary, regulations

1 shall be tailored to meet the predominate identified need to
2 protect consumers as follows:

3 *a.* If a regulation is intended to protect consumers against
4 fraud, the appropriate state action shall be to strengthen
5 powers under deceptive trade practices acts.

6 *b.* If a regulation is intended to protect consumers against
7 unsanitary facilities and general health or safety concerns,
8 the appropriate state action shall be to require periodic
9 inspections.

10 *c.* If a regulation is intended to protect a consumer against
11 potential damages to a third party who is not a party to a
12 contract between the seller and buyer, and other types of
13 externalities, the appropriate state action shall be to require
14 bonding or insurance.

15 *d.* If a regulation is intended to protect a consumer against
16 potential damages by transient providers, the appropriate state
17 action shall be to require registration with the secretary of
18 state.

19 *e.* If a regulation is intended to protect a consumer
20 against asymmetrical information between the seller and buyer,
21 the appropriate state action shall be to offer voluntary
22 certification, unless appropriate, privately offered voluntary
23 certification for the relevant occupation is available.

24 *f.* If a regulation is intended to facilitate governmental
25 reimbursement for providing medical services for an emerging
26 medical specialty, the appropriate state action shall be
27 to require a specialty occupational license for medical
28 reimbursement. A person shall not be required to hold a
29 specialty occupational license for medical reimbursement in
30 order to lawfully provide a medical service for an emerging
31 medical specialty; however, a person providing a medical
32 service for an emerging medical specialty without a specialty
33 occupational license for medical reimbursement shall not
34 receive governmental reimbursement for providing that service.
35 A specialty occupational license for medical reimbursement

1 shall not restrict governmental reimbursement for services
 2 similar to the regulated service that may be provided by other
 3 regulated persons.

4 *g.* If a regulation is required to perform services
 5 regulated by both federal laws and the laws of this state,
 6 the appropriate state action shall be to require the state
 7 to recognize an individual's occupational license from
 8 another state or territory of the United States to allow that
 9 individual to practice in this state.

10 3. An occupational regulation may be enforced against an
 11 individual only to the extent the individual sells goods and
 12 services that are included explicitly in the statute that
 13 defines the occupation's scope of practice.

14 4. This chapter shall not restrict an occupational
 15 licensing board from requiring, as a condition of licensure
 16 or renewal of licensure, that an individual's personal
 17 qualifications include obtaining or maintaining certification
 18 from a private organization that credentials individuals in the
 19 relevant occupation.

20 Sec. 20. NEW SECTION. **4B.3 Local licensing — preemption.**

21 1. This chapter preempts any ordinance or other local law
 22 or regulation which conflicts with or is inconsistent with any
 23 policy of the state expressed in this chapter by any political
 24 subdivision that regulates an occupation or profession that is
 25 not regulated by the state.

26 2. This chapter does not apply to the regulation of a place
 27 of business by an ordinance, permit, or license.

28 DIVISION III

29 ACCOUNTABLE GOVERNMENT ACT REPORTS

30 Sec. 21. Section 8E.210, Code 2021, is amended by adding the
 31 following new subsection:

32 NEW SUBSECTION. 1A. In addition to the requirements
 33 of subsection 1, an agency's annual performance report
 34 shall include a description of how the agency improved
 35 efficiency, modernized processes, eliminated duplication and

1 outdated processes, reduced costs, increased accountability,
2 expanded the use of technology, and incorporated productivity
3 improvement measures. The section of the annual performance
4 report addressing the factors listed in this subsection shall
5 be submitted to the state government committee of each chamber
6 of the general assembly and made publicly available on the
7 internet site of the general assembly.

8

DIVISION IV

9 PROFESSIONAL LICENSING BOARD INVESTIGATIONS AND EXAMINATIONS

10 Sec. 22. Section 272C.3, subsection 1, paragraph d, Code
11 2021, is amended to read as follows:

12 d. Determine in any case whether an investigation, or
13 further investigation, or a disciplinary proceeding is
14 warranted. Notwithstanding the provisions of [chapter 17A](#),
15 a determination by a licensing board that an investigation
16 is not warranted or that an investigation should be closed
17 without initiating a disciplinary proceeding is not subject to
18 judicial review pursuant to [section 17A.19](#). Notwithstanding
19 any other provision of law, if a board determines that there
20 is no probable cause to believe that an asserted violation has
21 occurred, the complaint shall be returned to the complainant
22 with a statement specifying the reasons for rejection
23 sufficient to enable the complainant to review the agency's
24 determination.

25 Sec. 23. Section 272C.12, subsection 3, paragraph c, Code
26 2021, is amended to read as follows:

27 c. The ability of a licensing board, agency, or department
28 to require a person to take and pass an examination specific to
29 the laws of this state prior to issuing a license. A licensing
30 board, agency, or department that requires an applicant to take
31 and pass an examination specific to the laws of this state
32 shall issue an applicant a temporary license that is valid
33 for a period of three months and may be renewed once for an
34 additional period of three months, except that a licensing
35 board, agency, or department shall not issue a temporary

1 license if the applicant can take the examination within thirty
2 days of submitting an application.

3 DIVISION V

4 EFFECTIVE DATE

5 Sec. 24. EFFECTIVE DATE. This Act, being deemed of
6 immediate importance, takes effect upon enactment.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to the operation of state government,
11 including the review and sunset of state boards and agencies
12 and the regulation of professions. The bill is organized into
13 divisions.

14 DIVISION I — REGULATION OF PROFESSIONS. The division
15 relates to the regulation of professions. The bill requires
16 a legislative committee reviewing legislation to impose
17 regulations on a health profession that is not currently
18 subject to regulation by the state to verify that: the
19 unregulated practice of the profession will clearly harm or
20 endanger the public, the public will benefit from assurances
21 of professional ability, and the public cannot be effectively
22 protected in a more cost-efficient manner. The legislative
23 committee must then verify that the legislation is the least
24 restrictive method of regulation to protect the public. After
25 completing its review, the bill requires the committee to
26 submit its findings to the president of the senate and speaker
27 of the house of representatives, who shall make the findings
28 available to each member of the general assembly on the
29 internet site of the general assembly.

30 The bill requires a member of the general assembly
31 introducing legislation to regulate an unregulated health
32 profession to submit a report, prepared by the legislative
33 services agency, with the legislation addressing why the
34 regulation is necessary, the efforts that have been made to
35 address the problem, the alternatives considered, the benefits

1 and harms to the public from regulation, the maintenance of
2 professional standards, and shall include a description of the
3 profession proposed for regulation and the expected costs of
4 regulation. The report shall be submitted to the president
5 of the senate and the speaker of the house of representatives
6 prior to full consideration of the legislation, and shall be
7 made publicly available on the internet site of the general
8 assembly. The bill does not allow a person to practice an
9 unregulated health profession if the profession includes
10 practices within the scope of practice of a regulated health
11 profession.

12 The bill requires a member of the general assembly
13 introducing legislation to expand the scope of practice of a
14 regulated health profession to submit a report, prepared by the
15 legislative services agency, addressing why the expanded scope
16 of practice is beneficial, whether practitioners currently
17 have or will be required to obtain training because of the
18 expanded scope of practice, whether the new practice is
19 currently tested by a nationally recognized examination, the
20 extent to which the expanded scope of practice will impact
21 the practice of professionals currently in the state or who
22 relocate to the state, the costs or savings from the expanded
23 scope of practice, relevant laws in other states, and any
24 recommendations from regulatory entities. The report shall be
25 submitted to the president of the senate and the speaker of
26 the house of representatives prior to full consideration of
27 the legislation, and shall be made publicly available on the
28 internet site of the general assembly. A legislative committee
29 reviewing such legislation shall consider whether the scope
30 of practice is being expanded only to protect the public,
31 whether the expansion of services will benefit the public, and
32 whether any changes to the entity regulating the profession
33 are necessary. The committee shall not consider competitive
34 implications of expanding the scope of practice.

35 The bill requires a member of the general assembly

1 introducing legislation to impose or increase a continuing
2 education requirement on a health profession to submit evidence
3 of the efficacy of the requirement to the president of the
4 senate and the speaker of the house of representatives. The
5 evidence shall also be made publicly available on the internet
6 site of the general assembly.

7 The bill requires a legislative committee reviewing
8 legislation to impose a regulation on an unregulated nonhealth
9 profession to consider whether the unregulated practice of the
10 profession can clearly harm the public, whether the benefits
11 of regulation clearly exceeds the costs imposed on consumers,
12 and whether the public needs assurances of professional
13 ability. If the committee finds in the affirmative with
14 respect to the preceding factors, the committee shall examine
15 data to find evidence of actual harm to the public related
16 to the unregulated nonhealth profession being considered
17 for regulation. If the committee finds that regulation is
18 necessary, the committee shall review the legislation to
19 determine whether it is the least restrictive regulation
20 necessary to protect the public and that it is not being
21 imposed to protect a profession from economic competition. The
22 committee shall submit its findings to the president of the
23 senate and the speaker of the house of representatives, who
24 shall make the findings available to each member of the general
25 assembly. The bill does not allow a person to practice an
26 unregulated nonhealth profession if the profession includes
27 practices within the scope of practice of a regulated nonhealth
28 profession.

29 The bill requires a member of the general assembly
30 introducing legislation to regulate an unregulated nonhealth
31 profession to submit a report prior to full consideration of
32 the legislation, prepared by the legislative services agency,
33 addressing why regulation is necessary, the efforts made to
34 address the problem, the alternatives considered, the benefits
35 and harm to the public, the maintenance of professional

1 standards, the professional groups proposed for regulation, and
2 the expected costs of regulation.

3 The bill repeals a Code provision creating principles to
4 guide the general assembly for the state licensure of an
5 occupation or profession.

6 DIVISION II — STATE BOARD REVIEWS. This division relates
7 to the review of state boards.

8 The bill creates new Code chapter 4A relating to the review
9 of state boards by the state government efficiency review
10 committee. The bill requires the state government efficiency
11 review committee to meet monthly, as necessary, to review
12 the usefulness, performance, and efficacy of the board. The
13 legislative services agency shall create a schedule, which the
14 committee may revise, for review of approximately one-fifth of
15 all boards each calendar year between the year 2022 and the
16 year 2027. The bill requires each board to be reviewed once
17 every five years thereafter. The bill removes duties of the
18 state government efficiency review committee not related to
19 the review of boards. The bill adds one ex officio, nonvoting
20 member appointed by the governor to the committee.

21 A board that is subject to review shall submit a report to
22 the committee prior to the date the board is scheduled for
23 a sunset review that includes certain information specified
24 in the bill, and shall bear the burden of demonstrating a
25 continued public need for its existence. The bill provides
26 several factors for the committee to consider.

27 After completing a review, the committee shall prepare
28 a report of its findings and recommendations by December
29 21 of each year, which report may include findings and
30 recommendations for more than one board. The committee
31 shall present its findings to the general assembly in
32 the form of a bill. The committee shall include with its
33 recommendations an explanation of the benefits of implementing
34 the recommendations.

35 The bill provides that Code chapter 4A does not restrict

1 the general assembly from taking any other action with respect
2 to regulating boards, requires each Act creating a board after
3 the effective date of the bill to include a dissolution date
4 for the board within five years of creation, and requires a
5 governmental entity created by an executive order to dissolve
6 within one year or after submission of a report, whichever is
7 later.

8 The division creates principles for the imposition
9 of professional regulations in new Code chapter 4B. The
10 principles include a policy of enacting the least restrictive
11 regulation necessary to protect the public, encouraging
12 economic opportunities and competition, providing guidance
13 for determining what style of regulation is appropriate, and
14 enforcing an occupational regulation against an individual only
15 to the extent that it is explicitly provided for by a statute.
16 The bill does not prohibit a licensing board from requiring
17 licensees to obtain credentials from private organizations.
18 The bill provides a rule of construction that any law of a
19 political subdivision regulating a profession that is not
20 regulated by the state shall be preempted if it is inconsistent
21 with the principles expressed in the bill. Code chapter 4B
22 does not apply to the regulation of a place of business through
23 an ordinance, permit, or license.

24 DIVISION III — ACCOUNTABLE GOVERNMENT ACT REPORTS. The
25 division relates to accountable government Act reports
26 submitted by agencies. The bill requires such reports
27 to include descriptions of how the agency has improved
28 efficiency, modernized processes, eliminated duplication and
29 outdated processes, reduced costs, increased accountability,
30 expanded the use of technology, and incorporated productivity
31 improvement measures. This portion of the report shall be
32 submitted to the state government committee of both chambers of
33 the general assembly and posted publicly on the internet site
34 of the general assembly.

35 DIVISION IV — PROFESSIONAL LICENSING BOARD INVESTIGATIONS

1 AND EXAMINATIONS. This division relates to investigations by
2 professional licensing boards. The bill strikes the provision
3 that a determination by a licensing board that an investigation
4 is not warranted or should be closed without a disciplinary
5 hearing is not subject to judicial review. However, the bill
6 requires a board that determines that no probable cause exists
7 for an asserted violation to return the complaint asserting the
8 violation to the complainant with a statement specifying the
9 reasons for rejection of the complaint. The bill prohibits
10 a licensing board from offering a temporary license to an
11 applicant required to take an exam on the laws of this state if
12 the applicant can take the exam within 30 days of submitting
13 an application.

14 DIVISION V — EFFECTIVE DATE. The bill takes effect upon
15 enactment.